

Fw: Wallace Yard tolling agreement

Clifford Villa to: Gail.Wurtzler

08/26/2008 10:07 AM

Gail: I sent the attached tolling agreement to Bob Lawrence two weeks ago, didn't hear back, and really need to get it signed on behalf of UPRR this week.

(b) (6) Can you help? I am also pushing for signature this week by BNSF.

DOJ is prepared to file civil complaints next week to preserve the SOL if necessary, but I'm sure no one wants that, especially for UPRR in the Coeur d'Alene Basin, where the Railroad has already resolved most of its CERCLA liability (as you well know).

I hope to hear from you soon.

Thanks.

Cliff Villa
Assistant Regional Counsel
U.S. EPA Region 10

----- Forwarded by Clifford Villa/R10/USEPA/US on 08/26/2008 10:00 AM -----

Clifford Villa/R10/USEPA/US

08/19/2008 04:50 PM

To Bob Lawrence, Craig Trueblood

cc

Subject Fw: Wallace Yard tolling agreement

Missing attachment:



Tolling Agreement.doc

Cliff Villa
Assistant Regional Counsel
U.S. EPA Region 10

----- Forwarded by Clifford Villa/R10/USEPA/US on 08/19/2008 04:49 PM -----

Clifford Villa/R10/USEPA/US

08/19/2008 04:49 PM

To Bob Lawrence, Craig Trueblood

cc

Subject Wallace Yard tolling agreement

Bob, Craig:

I hope you all are well. The summer went much too fast, as usual, and I believe it is just about time we refocus attention on the Wallace Yard and Spur Lines in the Coeur d'Alene Basin. Toward that end, I have drafted special notice letters which I expect will go out next week. However, before we start the clock on the SNLs, I believe we may need to stop the clock on the SOL that may or may not be triggered by the Sept. 2002 signing of the Coeur d'Alene Basin ROD.

As I explained to Craig briefly on Friday, DOJ is concerned about the six-year remedial SOL under CERCLA and is prepared to file civil complaints against PRPs that have not resolved all CERCLA liability in the CdA Basin. To head that off, tolling agreements were sent out last week to several so-called de minimis parties that had thus far avoided involvement with the continuing CdA cost recovery / NRD litigation.

I would argue that whatever SOL might be triggered by the 2002 CdA ROD is irrelevant to the Wallace Yard / Spur Lines, which - as you know - is subject to a separate decision document (Action Memo) that was just signed earlier this year. Nevertheless, to give ourselves some breathing room for negotiations addressing the Wallace Yard and Spur Lines, I believe it would be prudent to enter into a tolling agreement that would keep DOJ from filing a civil complaint prematurely or unnecessarily.

Attached is a form of the standard tolling agreement tailored for the Wallace Yard and Spur Lines Site that has been pre-approved by DOJ. Please let me know ASAP (i.e., in the next couple of days) if you believe your clients would be willing to sign this agreement. Obviously, I believe this agreement is in their interest as well as ours, but that is up to your good counsel.

Best regards. I look forward to working with you again.

Cliff Villa
Assistant Regional Counsel
U.S. EPA Region 10